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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	Mag. Case No.	'08 MJ 8553
)	<u>COMPLAINT FOR VIOLATION OF</u>	
Plaintiff,)	Title 8, U.S.C., Section 1326	
v.)	Deported Alien Found In the	
Rafael YANEZ-Hernandez,)	United States	
)		
Defendant.)		
)		

The undersigned complainant being duly sworn states:

On or about June 17, 2008, within the Southern District of California, defendant Rafael YANEZ-Hernandez, an alien, who previously had been excluded, deported or removed from the United States to Mexico was found in the United States, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States code, section 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

[Signature]
Senior Border Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 18th DAY OF JUNE 2008.

[Signature]
PETER C. LEWIS
U.S. MAGISTRATE JUDGE

1 UNITED STATES OF AMERICA

2 v.

3 Rafael YANEZ-Hernandez

4

5 STATEMENT OF FACTS

6 The complainant states that this complaint is based upon the investigative
7 reports of Border Patrol Agent B. Richard, that the Defendant, Rafael YANEZ-
8 Hernandez a citizen of Mexico, was found and arrested on June 17, 2008, near Niland,
California.

9 On June 17, 2008, at approximately 9:00 A.M., Agent S. Smalldridge was
10 performing his assigned Border Patrol Duties near Niland, California. Agent Smalldridge
11 encountered two individuals, one later identified as Rafael YANEZ-Hernandez, near the
12 Coachella Canal Road attempting to hide in the brush. Agent Smalldridge identified
13 himself and questioned them. It was determined YANEZ and the other individual are
14 citizens of Mexico illegally in the United States. The two were placed under arrest.

15 At the U.S. Border Patrol Highway 111 Checkpoint a record check of YANEZ
16 revealed he had been ordered removed on June 4, 2008. Further record checks
17 revealed YANEZ has an extensive and serious criminal and immigration history.

18 Agent Jarequi witnessed Agent J. Garcia read YANEZ his rights. YANEZ stated
19 he understood his rights and was willing to speak to agents without the presence of an
attorney. YANEZ stated he illegally entered the United States by coming north in the
20 New River. YANEZ stated the Border Patrol stopped the vehicle he was picked up by
but he was able to escape apprehension and hid from authorities before continuing
21 walking north.

22 There is no evidence YANEZ has requested nor applied for permission from the
23 Attorney General of the United States or the Secretary of the Department of Homeland
24 Security to re-enter the United States.